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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/400,413	09/21/99	MCNALLY	K 3125-400
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JOHN W. OSBORNE  
MORGAN & FINNEGAN, LLP  
345 PARK AVENUE  
NEW YORK NY 10154

TM02/1129

EXAMINER

NELIYEN, C	
ART UNIT	PAPER NUMBER

2173  
DATE MAILED:

11/29/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No. <b>09/400,413</b>	Applicant(s) <b>McNally et al.</b>
Examiner <b>Cao "Kevin" Nguyen</b>	Group Art Unit <b>2173</b>

Responsive to communication(s) filed on 9/21/99

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claim

Claim(s) 1-43 is/are pending in the ap

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consider

Claim(s) 20-30 and 40-43 is/are allowed.

Claim(s) 1-19 and 31-39 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected

Claims \_\_\_\_\_ are subject to restriction or election require

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

Art Unit: 2173

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371 of this title before the invention thereof by the applicant for patent.

2. Claims 1-19 and 31-39 are rejected under 35 U.S.C. 102(e) as being anticipated by Cupps et al. (5,991,739).

Regarding claim 1, Cupps discloses an information management and synchronous communications system for generating menus comprising: a central processing unit, a data storage device connected to said central processing unit, an operating system including a graphical user interface (see figure 2), a first menu stored on said data storage device, application software for generating a second menu from said first menu, wherein the application software facilitates the generation of the second menu by allowing selection of items from the first menu, addition of items to the second menu and assignment of parameters to items in the second menu using the graphical user interface of said operating system (see col. 9, lines 42-67).

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Regarding claim 2, Cupps discloses an information management and synchronous communications system, wherein the second menu is a restaurant menu (see col. 5, lines 27-67).

Regarding claim 3, Cupps discloses an information management and synchronous communications system, wherein the second menu is capable of being displayed on the display screen of a wireless computing device (see col. 4, lines 1-55).

Regarding claims 4 and 5, Cupps discloses an information management and synchronous communications system, wherein selections from the second menu are capable of being transmitted to a receiving computer by wireless link (see figures 1-2).

Regarding claims 6 and 7, Cupps discloses an information management and synchronous communications system in, wherein the computer network is the internet; and selections from the second menu are capable of being transmitted to a receiving computer via the internet (see col. 9, lines 16-65 and figure 8-10).

Regarding claims 8-11, Cupps discloses an information management and synchronous communications system, wherein the second menu is created in conformity with hypertext markup language or extensible markup language (see col. 10, lines 8-56 and figures 7-10).

As claims 12-19 and 31-39 are analyzed as previously discussed with respect to claims 1-11 above.

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*Allowable Subject Matter*

3. Claims 20-30 and 40-43 are allowed over the prior art of record.

Applicant has claimed uniquely distinct features in the instant invention which are not found in the prior art either singularly or in combination. They are an information management and synchronous communications system for generating and transmitting menus a sub-modifier menu stored on data storage device and displayable in a window of graphical user interface, and application software for generating a second menu from first menu and transmitting second menu to a wireless handheld computing device or Web page. These features are not found or suggested in the prior art.

The present invention is directed to an information management and synchronous communications system for generating and transmitting menus. Each independent claims 20 and 40 are identified the uniquely distinct features "a sub-modifier menu stored on data storage device and displayable in a window of graphical user interface, and application software for generating a second menu from first menu and transmitting second menu to a wireless handheld computing device or Web page". The closest prior art, Cupps (US Patent No. 5,991,739) and Chen (US Patent No. 5,724,069) discloses convention of user interactive interface providing an on-line ordering distribution, either singularly or in combination, fail to anticipate or render the above underlined limitations obvious.

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